

IDAPA 37.03.09  
Negotiated Rule Making  
March 30, 2007

Negotiated Rule Making commenced on Friday, March 30 at 8:30 AM MDT. This meeting was conducted using the University of Idaho's teleconferencing system, and stakeholders participated from locations in Twin Falls, Coeur d'Alene, Idaho Falls, and Boise. The complete meeting was recorded, and is summarized below.

***Opening***

- Facilitator, Mike Hart, opened the meeting by letting all participants know that this would be the last negotiation meeting. He informed the group that the next and last video session would strictly be a one-way communication with IDWR sharing its final draft and no more opportunities for negotiated changes.
- Chuck Galloway, IDWR, acknowledged the participation by the drilling community and other stakeholders and indicated that IDWR's role in crafting the final draft will be to balance the needs of the industry with IDWR's mission to protect the resource.
- John Sharkey, IDWR, thanked all participants for their vigilance throughout the process commending their vigilance and commitment to work with IDWR staff to develop solutions to some of the more challenging issues particularly emails and conference call input.

***Review of Changes Since Last Meeting***

John Sharkey, IDWR, provided a general walk through all sections that had been modified since the last meeting providing both the changes made and the reasons for making them.

***Group Discussion of Rules and Changes***

The committee sequentially went through IDAPA rule 37.03.09 section-by-section, line-by-line starting with definitions.

- The group discussed the definition of unused wells and the topic of abandonment. Eventually agreeing to the revised definition.
- The issue of setback requirements (line 354, March 30 Draft) resulted in some discussion of what types of lines fall under the definition of sewer.
- The group discussed whether the section on areas of geological condition would be needed since there wouldn't be time to develop more specific rules specific to geological conditions at this point in time (though there remains a consensus that rules tailored to specific geology would be more ideal than more broad general rules). The group concluded that leaving the description in could provide flexibility to accommodate different geology. IDWR acknowledged that further legal reviews might result in losing this language if it is determined that it would exceed IDWR's statutory authority.
- The table on steel casing requirements (line 443) was discussed at length. IDWR shared that they had received comments from DEQ (written copy later shared with the group) pushing for the more stringent requirements of the 10-State Standard. Several commented that availability was a major issue. IDWR acknowledged they had revised the table substantially to accommodate pipe availability. Several stakeholders identified that the 10-State Standard was developed for areas with acidic geology that is not common in Idaho and the Standard itself was under revision to accommodate pipe availability.
- Perforation technologies (including explosives) were discussed. Wall thicknesses and diameters seemed to pose the greatest challenge for smaller diameter pipe.
- The appropriate use of PVC and the distinction between casing and liner was discussed.

## ***Lunch Break***

### ***Seals***

- John Sharkey again reviewed the requirements for sealing artesian wells and acknowledged that internal IDWR discussions had resulted in the removal of Method 3 from the rules but the March 30 revision did not have the subsequent supporting sections relevant to this method fully expunged.
- There was a lengthy discussion that about 'drive shoe seals.' Most drillers identified this as a preferred method and indicated that they believed it should be an allowed practice codified in the rules. IDWR indicated that it viewed the drive shoe as a device that was not designed or intended for sealing and indicated that it was intentionally left out of the rules. The applicability of drive shoe seals and drill and drive methods in clays, unconsolidated formations and solid rock were discussed. Stakeholders from the drilling community indicated that this was the dominant and preferred method for sealing and stated that they believed it was not a problem for the resource. IDWR cited the down-hole video shown in previous meeting as evidence that it was a problem. While this caused upset among some stakeholders, the facilitator pointed out that at this point, the views were clear that IDWR was not inclined to either propose or adopt 'drive shoe seals' as an acceptable technology and drillers felt strongly that the practice should be allowed. The facilitator recommended tabling the discussion since new arguments or evidence were not being introduced and pointed out that not agreeing is not the same as not listening.
- The facilitator suggested that the IGWA develop proposed draft language to accommodate 'drive shoe seals' into the rule. The IGWA agreed to prepare a draft and deliver it to IDWR prior to the next teleconference. The department agreed to entertain the proposal but expressed skepticism about whether the method would be accepted.
- The issue of acceptable annulus and sealing and the possibility of using shale traps as seals to accommodate specific situations were discussed. The concept of 'shale trap seals' was identified as a possible solution to some situations where there was insufficient annular space to meet the requirements stipulated in the table on line 756. IGWA agreed to include a proposal for shale traps with their language for 'drive shoe seals.'

### ***Conclusion***

- Facilitator, Mike Hart, closed the meeting identifying action items for IDWR and IGWA. The IDWR would post updated materials on the web by April 6<sup>th</sup> and the IGWA agreed to submit proposed language for drive shoe and shale trap seals.
- IDWR committed to hold a final conference call on April 10<sup>th</sup> to review final proposals.
- IDWR committed to posting the final draft rule on the web by April 16<sup>th</sup>.
- IDWR identified the comments process would continue but the next meeting on April 20<sup>th</sup> would be a reporting meeting rather than a meeting for discussion or further negotiation.
- Dave Tuthill, Acting Director of IDWR closed the meeting thanking participants for their time, contributions and expressed the department's gratitude to have had the opportunity to work with stakeholders to craft the proposed rule.